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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,595	12/05/2001	Lance E. Anderson	10112014	5140
7590	11/19/2003		EXAMINER	
John F. Klos, Esq. Fulbright & Jaworski L.L.P. Suite 4850 225 South Sixth Street Minneapolis, MN 55402-4320			KOHNER, MATTHEW J	
			ART UNIT	PAPER NUMBER
			3653	
DATE MAILED: 11/19/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/004,595	ANDERSON, LANCE E.
	Examiner	Art Unit
	Matthew J Kohner	3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 August 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-27 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 December 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

Response to Arguments / Amendments

The 103 rejection of claims 1-26 is withdrawn.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “postage paid mail item” (claims 4 and 10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Note that drawings show folder (30), however, this is not a postage paid mail item since it is an open-ended folder which could not be sent through the mail since anything contained within the folder would fall out.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Further, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because there are several instances where reference characters within the drawings are used to designate different elements. For example,

- “6” has been used to designate both “bottom member” and “drawer”;
- “30” has been used to designate both “folder” and “divider”;

- “10” has been used to designate “sorting device” and “Soderstrom device” and “frame” Terminology should be consistent throughout the entire specification and claims.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Further, the drawings are objected to under 37 CFR 1.83(a) because they fail to show element 46, “fold line” [page 7, line 1], as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 7 have preambles which pertain to “[a]n apparatus of a folder device ...” However, the apparatus of a folder device is comprised of both:

- a mail sorting device; and

b) a folder device.

The preamble is not commensurate with the scope of the claim. Appropriate correction is required.

Claims 1, 2, 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 2, 7 and 8 recite the limitation "support structure" however, the examiner is unable to find the term "support structure" in the specification and concludes that "support structure" can not be either the frame or partition elements since "support structure" is recited in addition to those elements in claim 1. If the "support structure" is the "bottom" (6/16), then

- a) it should be referred to consistently through the specification and the claims (appropriate correction is required); and
- b) it is not shown how the orientation of the "bottom" contributes to the items being supported in a horizontal manner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 9-11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,643,306 to Ryan in view of US Patent No. 399,819 Schreyer and further in view of US Patent No. 5,000,325 to D'Elia.

Ryan discloses a mail-sorting device (Fig. 1) having a plurality of partition elements (24) supported upon a frame (16, 18, 20) each of the partition elements having a configured leading edge (See Fig. 1), a plurality of compartments into which items are placed in a generally upright manner, each of the plurality of compartments (Col. 2, lines 42) being at least partially defined between a pair of partition elements and a support structure for engaging the items.

Ryan fails to disclose a folder device.

Schreyer discloses a folder device for receiving items which includes a first side connected to a second side.

There is motivation to use folders such as those described by Schreyer with a mail-sorting device. It is known in the art that mail can be sorted by placing the mail into separate adjacent folders wherein the folders are held in an adjacent relation to each other within a cart, etc. (D'Elia Col. 1, lines 34+). Therefore, in light of D'Elia's teaching, placing folders such as those described in Schreyer into a sorting device such as Ryan's would be obvious to one of ordinary skill in the art at the time the invention was made.

In regard to the limitation of the sides of the folder being "differently configured" it would have been an obvious matter of design choice to make the sides "differently configured," since the applicant has not disclosed that by making the sides in a particular way would solve any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the present teaching.

In regard to claims 3 and 9, Schreyer discloses an index tab, 24.

In regard to claims 5 and 11, applicant states that alternative splay structure which cause side walls of the folder to diverge are appreciated by those of skill in the art (Specification page 7, 1st paragraph). Therefore, applicant has admitted that at least alternative splay structures are known. Since alternative splay structures are known in the art, it would be obvious to one of ordinary skill in the art to use such a structure to keep the folder open so that sorted mail could be placed within.

In regard to claims 6 and 12, Schreyer discloses a generally planar bottom to the folder, 20.

Claims 13-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,643,306 to Ryan in view of US Patent No. 399,819 Schreyer and further in view of US Patent No. 5,000,325 to D'Elia.

Ryan discloses a mail sorting device (Fig. 1) having a plurality of partition elements (24) supported upon a frame (16, 18, 20) each of the partition elements having a configured leading edge (See Fig. 1), a plurality of compartments into which items are placed in a generally upright manner, each of the plurality of compartments (Col. 2, lines 42) being at least partially defined between a pair of partition elements and a support structure for engaging the items.

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Additionally, with regard to the limitation of creating a delivery point package, it is well known in the art that mail can be sorted for a particular delivery sequence (see e.g. US Patent Application Publication 2002/0031284 A1 to Pippin et al., paragraph 10).

In regard to claim 14 and 15, Schreyer discloses an index tab, 24.

In regard to claim 16 and 19, the step of inverting the folder around the mail rather than placing the mail in the open folder (as disclosed in D'Elia) appears to be a matter of design choice, since the applicant has not disclosed that by placing the mail in the folder in a particular way would solve any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the present teaching.

In regard to claim 17 and 20, it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 US PQ 192.

In regard to claim 18, placing mail in subgrouping is essentially establishing a delivery point sequence. In other words, the mail is sorted in subgroups based on the delivery location. This is well known in the art (see e.g. Pippin et al., paragraph 10). The same logic applies to claims 21 and 26.

Conclusion

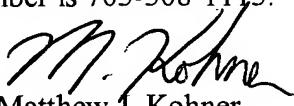
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 703-305-8496.

The examiner can normally be reached on Mon-Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on 703-306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Matthew J. Kohner
Examiner
Art Unit 3653

MJK


DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
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